

VZCZCXRO7508

OO RUEHAG RUEHAST RUEHBZ RUEHDA RUEHDBU RUEHDF RUEHFL RUEHIK RUEHKW  
RUEHLA RUEHLN RUEHLZ RUEHPOD RUEHROV RUEHSR RUEHVK RUEHYG  
DE RUCNDT #0697/01 2342345  
ZNR UUUUU ZZH  
O 222345Z AUG 07  
FM USMISSION USUN NEW YORK  
TO RUEHC/SECSTATE WASHDC IMMEDIATE 2504  
INFO RUEHXX/ARAB ISRAELI COLLECTIVE IMMEDIATE  
RUEHZL/EUROPEAN POLITICAL COLLECTIVE IMMEDIATE  
RUEHGG/UN SECURITY COUNCIL COLLECTIVE IMMEDIATE  
RUEHLB/AMEMBASSY BEIRUT IMMEDIATE 1143  
RUEHDM/AMEMBASSY DAMASCUS IMMEDIATE 0360  
RUEHTC/AMEMBASSY THE HAGUE IMMEDIATE 8921

UNCLAS SECTION 01 OF 02 USUN NEW YORK 000697

SIPDIS

SIPDIS

E.O. 12958: N/A

TAGS: [PREL](#) [PTER](#) [UNSC](#) [KCRM](#) [SY](#) [LE](#) [NE](#)

SUBJECT: OLA LEGAL COUNSEL TO TRAVEL TO THE NETHERLANDS TO  
DISCUSS SPECIAL TRIBUNAL FOR LEBANON

REF: A. USUN 688

[1](#)B. WILCOX/REINEMEYER EMAIL--08-22-07

[1](#)C. WILCOX/REINEMEYER EMAIL--08-07-07

[1](#)1. Begin Summary: UN Legal Counsel Nicolas Michel will lead a high-level UN delegation to the Netherlands in the next two weeks to discuss practical arrangements for the Netherlands to host the Special Tribunal for Lebanon, Michel's Special Assistant Mark Quarterman advised USUN August 21. The Secretary-General will issue a short progress report to the

SIPDIS

Security Council on September 5, and Nicolas Michel will likely brief Council members on it in consultations September [1](#)19. That report will include a notional three-year budget for the Tribunal and report on the UN's other initiatives to establish the Tribunal, including the selection of a location, judges, prosecutors, and the registrar. End Summary.

OLA Plans Trip

[1](#)2. UN Office of Legal Affairs (OLA) Special Assistant Mark Quarterman briefed USUN legal and poloffs August 21 on steps the OLA is taking to establish the Special Tribunal for Lebanon. In response to Dutch Prime Minister Jan Balkenende's August 15 letter to the Secretary-General, advising that the Netherlands is "favorably disposed" to hosting the Tribunal (refs A and B), UN Legal Counsel Nicolas Michel is finalizing plans to travel to the Netherlands the week of August 27-31 or September 3-7. Michel will be accompanied by his deputy, Larry Johnson; Robin Vincent, the former registrar of the Special Court for Sierra Leone (SCSL); and (possibly) a security expert. Depending on the outcome, OLA expects to send a working level delegation to the Netherlands in September.

[1](#)3. Quarterman seemed confident that Michel's trip would be fruitful, noting that the Dutch have established an Inter-Ministry Working Group on the Tribunal and have identified potential sites. Although OLA has not yet seen a list of sites, Quarterman expected that Camp Zeist, the International Criminal Tribunal for the former Yugoslavia (ICTY), and the International Criminal Court (ICC) would be included. In response to a question from USUN, Quarterman acknowledged that the ICTY's facilities are operating at capacity and the ICC is hosting the SCSL's Charles Taylor trial, but said both facilities might still have available office and detention space.

Issues to be Resolved

-----  
¶4. In addition to the need to select and prepare a site for the Tribunal, Prime Minister Balkenende's August 15 letter highlights other issues that will need to be resolved. For example, the Dutch want to address the establishment of the necessary legal basis for locating the Tribunal in the Netherlands (through a headquarters agreement and national legislation), the enforcement of sentences, and the relocation of witnesses to third states. The Dutch have given OLA no indications that their Parliament will block any necessary national legislation, Quarterman said. The key issue will be the Dutch request for prior assurances that other states will take persons convicted by the Tribunal "immediately" after their trials conclude. Comment: This issue also arose when the Taylor trial was transferred to The Hague. End Comment.

#### Fundraising

-----

¶5. Otherwise, the UN is proceeding to finalize a three-year budget estimate for the Tribunal, which will be included in the SYG's September report to the Security Council. Quarterman would not divulge a specific number, but said it would be more than the SCSL's budget (because the Tribunal will be housed in Europe) and less than the ICTY's. Quarterman stressed that security costs would likely be "fairly extensive" and thus increase costs.

¶6. The UN will use the final budget estimate to raise funds, Quarterman said, noting that the UN already has begun discussions with potential donors. The Lebanese have advised OLA that they are interested in contributing but need the final budget. In the meantime, the Lebanese have secured a legal opinion from their lawyers advising that no

USUN NEW Y 00000697 002 OF 002

Parliamentary approval is necessary for a one-year contribution, and Lebanon's constitutional experts are examining whether Security Council Resolution 1757 (2007) would obviate a need for Parliament to approve subsequent years' funding. The SYG raised funding for the Tribunal in his recent meeting with the Saudi Foreign Minister, although Quarterman did not know how the Foreign Minister had responded. The Germans (although not at the highest levels) have expressed "some interest" in funding the Tribunal, and OLA hopes the United States, Canada, and other European states would contribute.

#### Identifying Judges, Other Personnel

-----

¶7. Quarterman also said OLA has started soliciting nominations for judges and hopes to end the process by the end of the year. In addition to Nicolas Michel's August 1 letter inviting states to submit nominations for judges by September 24 (ref C), OLA has spoken informally with non-governmental organizations in New York and Europe to solicit names. Although OLA hopes to identify names and announce appointments by the end of the year at the earliest, Quarterman said the judges would not be in place until the beginning of next year at best. Separately, Quarterman said the UN is "thinking hard" about the need to protect the judges, which could affect the timing of their appointment and raises legal questions for the UN since the judges will not be UN employees.

¶8. UNIIIC Commissioner Serge Brammertz also is advising OLA on the establishment of the Prosecutor's Office. OLA is thinking about how to ensure a smooth transition and "extensive" overlap between Brammertz, whose contract expires in December 2007, and his successor. Ideally, the new Commissioner and the Tribunal's prosecutor would be the same person, Quarterman said, while acknowledging that the UN would need to hew closely to the UN-Lebanese Agreement's

provisions on appointing the prosecutor.

¶9. Noting Russia's insistence in 2006 that the Defense Office be an organ of the Tribunal, Quarterman said OLA also would begin work to identify a candidate to head the Defense Office.

¶10. Finally, Quarterman said the UN would be recruiting the registrar. Unlike the judges, prosecutors, and defense attorneys, that position will be a UN staff post, so the UN will be recruiting through its own human resources system.

KHALILZAD